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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/218,817	12/22/1998	MICHAEL JOSEPH GARDNER	1170	2549

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EXAMINER

HARPER, KEVIN C

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 08/24/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/218,817

Applicant(s)

GARDNER, MICHAEL JOSEPH

Examiner

Kevin C. Harper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-12,15-31,34-50 and 52-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-12,15-31,34-50 and 52-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/28/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments filed May 28, 2004 regarding claims 1, 4-12, 15-31 and 34-47 have been fully considered but they are not persuasive. Applicant argued that the Allen reference does not disclose a signaling processor as claimed. Although, the signaling processor of Allen is not specifically disclosed as transmitting selected ATM connection information as noted by applicant, it appears capable of performing this function as a broadband call server (para. 46, last five lines; para. 98).

2. Applicant's arguments, filed May 28, 2004, with respect to the rejection(s) of claim(s) 48-50 and 52-55 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Allen, Jr. et al.

Drawings

3. Replacement drawings were received on May 28, 2004. These drawings are approved.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4-12, 15-31, 34-50 and 52-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Allen, Jr. et al. (US 2001/0117861).

4. Regarding claims 1, 12, 18-19, 24-25, 29-31, 34-40 and 44, Allen discloses a system for connecting a call having call signaling and user communications (fig. 5). The system comprises a signaling processor (item 30) capable of performing broadband call server functionality (para.

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46, last five lines; para. 98) by transmitting selected ATM connection information to control the establishment of broadband connections. The system also comprises an ATM matrix (fig. 5, items 26-28) capable of receiving the user communications over another ATM connection (note: ATM connections between switches of the ATM network and/or T-IWFs), receiving the control message from the signaling processor and in response, and connecting the user communications over the selected ATM connection (para. 70, lines 7-12). A first and second TDM or LEC switching system (items 20 and items 22) provide user communications and interworking units (items 28) respond to control messages (fig. 5, ISUP). The system is used for call control and alternate routing for survivability (para. 26, lines 1-3 and para. 6, lines 1-15).

5. Regarding claims 4, 6, 8, 10, 16, 22, 27-28, 42 and 46, an ATM system (fig. 5, item 26) is used to transport the user communications to the ATM matrix using an ATM cross-connect (Fig. 5, item 28). The ATM system comprises several interconnected ATM switches (para. 44, last five lines).

6. Regarding claims 5, 9, 15, 21, 41 and 45, the ATM matrix (Fig. 5, items 26-30) has switching control for directing ATM packets (abstract, lines 1-6).

7. Regarding claims 7, 11, 17, 23, 43 and 47, the ATM system comprises a gateway (Fig. 5, item 28). The ATM system comprises several interconnected ATM switches (para. 44, last five lines).

8. Regarding claims 20 and 26, the switching system inherently contains an interexchange carrier switch for communicating with other central offices through the telephone network.

9. Regarding claims 48-50, 52 and 54, Allen discloses a method for connecting a call having call signaling and user communications (figs. 3 and 5), inherently receiving and processing the call signaling to select an ATM connection for user communications (para. 98) based on

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alternate call routing for survivability (para. 26, lines 1-3 and para. 6, lines 1-15). The method further comprises inherently transmitting a control message identifying the selected ATM - connection, receiving the user communications over another ATM connection and receiving the control message at an ATM mode matrix (fig. 5, items 26-28; note: ATM connections between switches of the ATM network and/or T-IWFs), and connecting the user communications over the selected ATM connection in response to the control message using the ATM matrix (para. 3, lines 4-8).

10. Regarding claims 53 and 55, a first and second TDM or LEC switching system (items 20 and items 22) provide user communications and interworking units (items 28) respond to control messages (fig. 5, ISUP).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Christie et al. (US 2003/0016665; fig. 3) and DuRee (US 6,674,729; fig. 1) each discloses a broadband call manager for selecting a broadband connection for narrowband communications.

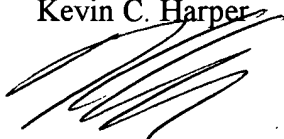
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 703-305-0139 (as of August 25, 2004, the number will be 571-272-3166). The examiner can normally be reached weekdays from 11:30 AM to 8:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 703-308-5463 (as of August 25, 2004, the number will be 571-272-3174). The centralized fax number for the Patent Office is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only (applications must be associated with a customer number). For more information about the PAIR system, see pair.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin C. Harper



August 19, 2004



D. M. T.
PATENT ENGINEER